

Remarks:

Reconsideration of the application is respectfully requested.

Claims 17 - 36 are presently pending in the application.

Claims 1 - 16 were previously canceled. Claims 17, 34 and 36 are being amended herein.

In item 2 of the above-identified Office Action, claims 17, 19 - 21 and 24 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by UK Patent No. GB 2,125,537 to Husslein et al ("**HUSSLEIN**").

In item 4 of the Office Action, claim 18 was rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **HUSSLEIN** in view of U. S. Patent No. 6,492,623 to Vilato et al ("**VILATO**") or German Reference No. G 82 32 895.6

In item 5 of the Office Action, claims 22, 23 and 25 - 36 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **HUSSLEIN** in view of U. S. Patent No. 5,844,206 to Steiner et al ("**STEINER**") or U. S. Patent No. 4,453,533 to Scheidler et al ("**SCHEIDLER**").

Applicant respectfully traverses the above rejections.

First, Applicant has amended claim 17 to recite, among other limitations:

said operating strip including a supporting surface on a lower side thereof **for supporting the household appliance on the worktop at a first side of the household appliance;**

the appliance having a circumferential edge around only the remaining sides of the household appliance and not the first side, said circumferential edge for supporting the remaining sides of the household appliance on the worktop. [emphasis added by Applicant]

As such, Applicant's claim 17 affirmatively recites that the household appliance of claim 17 includes an operating strip including a supporting surface for supporting the household appliance on the worktop **at a first side**, and a circumferential edge on **only** the remaining sides **and not on the first side**, for supporting the remaining sides of the household appliance on the worktop. The amendments to claim 17 are supported by the specification of the instant application, for example, paragraph [0021] of the instant application, which states, in part:

The cooking surface is inserted in a section of a worktop 5 and is supported on an upper side of the worktop 5. **At its front side facing an operator, the cooking surface is supported on the worktop 5 by means of a control strip 7. On its other sides the cooking surface is supported on the worktop 5 by means of a circumferential edge of the glass ceramic plate 1.**

See also, for example, Fig. 3 of the instant application showing the control strip 7 being affixed to the appliance 25

on a side of the appliance 25 not including the
circumferential edge of the cooktop 1. Fig. 3 of the instant
application is being reproduced herebelow, for convenience

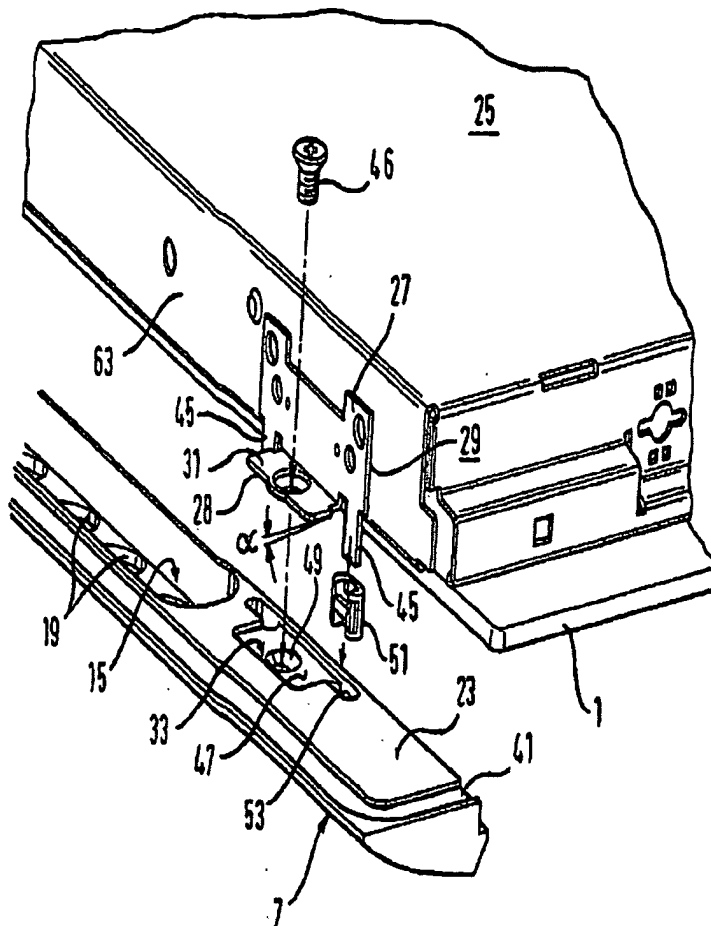


FIG. 3

In contrast to Applicant's invention of claim 17, the **HUSSLEIN** reference, (like the **VILATO** reference cited in item 6 of the Office Action) has a circumferential edge around all sides of the appliance. See, for example, Figs. 2 - 5 of **HUSSLEIN** (and Fig. 1 of **VILATO**). In fact, the **HUSSLEIN** reference intends

that the appliance be supported by the circumferential edge, even on a side including the frame. For example, in connection with Figs. 4 and 5, page 3 of **HUSSLEIN**, lines 1 - 3 state:

The frame 17 itself rests on the cooker working plate 21 and carries the glass ceramic plate 1. [emphasis added by Applicant]

See, for example Figs. 4 and 5 of **HUSSLEIN**. See also, for example, Figs. 2 and 3 of **HUSSLEIN** showing the cover frame 7 of **HUSSLEIN** supporting an edge of the glass ceramic plate 1 of **HUSSLEIN**. As such, not only does **HUSSLEIN** specifically disclose the use of a circumferential edge entirely around the appliance, **HUSSLEIN** specifically teaches that the frame (17 of Fig. 4 of **HUSSLEIN**) carries the glass ceramic plate (1 of Fig. 4 of **HUSSLEIN**) by the circumferential edge of the appliance adjacent to the component bearing frame portion 17. Thus, **HUSSLEIN** requires the circumferential edge along the "first side" of the appliance of **HUSSLEIN**, adjacent to the "operating strip" of **HUSSLEIN**, **because that edge serves a desired function in HUSSLEIN** (i.e., carrying the glass ceramic plate).

M.P.E.P. § 2143.01(VI) states, in part:

VI. THE PROPOSED MODIFICATION CANNOT CHANGE THE PRINCIPLE OF OPERATION OF A REFERENCE

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the

teachings of the references are not sufficient to render the claims *prima facie* obvious.

Thus, M.P.E.P. § 2143.01(VI) that a proposed modification cannot change the principle of operation of a reference. Thus, because the **HUSSLEIN** reference specifically teaches providing the edge in the region of the operating strip so that the operating strip serves a particular function (i.e., "carries the glass ceramic plate 1"), under M.P.E.P. § 2143.01(VI), it would not be obvious to modify the device of **HUSSLEIN** to eliminate the circumferential edge adjacent to the operating strip, as required by Applicant's claim 17.

Further, M.P.E.P. § 2143.01(V) states, in part:

**V. THE PROPOSED MODIFICATION CANNOT RENDER THE
PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE**

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

Thus, M.P.E.P. § 2143.01(V) states that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. **HUSSLEIN** teaches providing and using the circumferential edge of the plate 1 of **HUSSLEIN** for a purpose, i.e., as a point of support to be carried by the frame 17. Eliminating the edge of the plate 1 adjacent to the frame 17

of **HUSSLEIN** would render the device of **HUSSLEIN** unsatisfactory for its intended purpose (i.e., the frame would no longer support the appliance on all sides, and thus, would not provide a stable platform for the appliance). As such, the teachings of **HUSSLEIN** cannot be modified to cover Applicant's invention of claim 17, under M.P.E.P. § 2143.01(V).

Further still, the **HUSSLEIN** reference quite simply teaches a person of ordinary skill in this art away from the invention of Applicant's claim 17, by teaching the desirability of the edge of the plate 1 of **HUSSLEIN** in the area of the strip 17. Thus, the **HUSSLEIN** reference could not be said to teach, suggest or motivate to a person of ordinary skill in this art a modification to remove the desired circumferential edge of **HUSSLEIN**.

The **VILATO**, **STEINER** and **SCHEIDLER** references, cited in the Office Action in combination with the **HUSSLEIN** reference against certain of Applicant's dependent claims, do not cure the above-discussed deficiencies of the **HUSSLEIN** reference. Indeed, any suggested modification to eliminate the edge 1 carried by the strip 17 of **HUSSLEIN** would impermissibly destroy the teachings of the **HUSSLEIN** reference, and thus, **HUSSLEIN** cannot be combined with any reference that suggests such a modification. For the foregoing reasons, among others, Applicants' claim 17 is believed to be patentable over the

HUSSLEIN, VILATO, STEINER and SCHEIDLER references, taken alone, or in any permissible combination.

Item 6 of the Office Action addressed Applicant's argument with regard to the previously presented claim 17, stating, in part:

But, it is noted that the scope of the claim does not limit the use of a frame along with a cooktop itself because the claim uses the transitional phrase "comprising" which allows for an open-ended claim scope.

Applicants believe that the amended claim 17, affirmatively reciting a circumferential edge "only" on the remaining sides and "not on the first side" clearly limits the claim to the recited structure and clearly distinguishes claim 17 from the **HUSSLEIN** and **VILATO** references.

Further, Applicant has amended independent claim 34 to recite, among other limitations:

a formed or milled operating strip containing at least one operating element **and having a supporting surface on a lower side thereof in contact with the worktop** for supporting the household appliance on the worktop;

said operating strip including at least one recess for an appliance component **and at least one mounting recess in said supporting surface**; [emphasis added by Applicant]

Similarly, Applicant has amended independent claim 36 to recite, among other limitations:

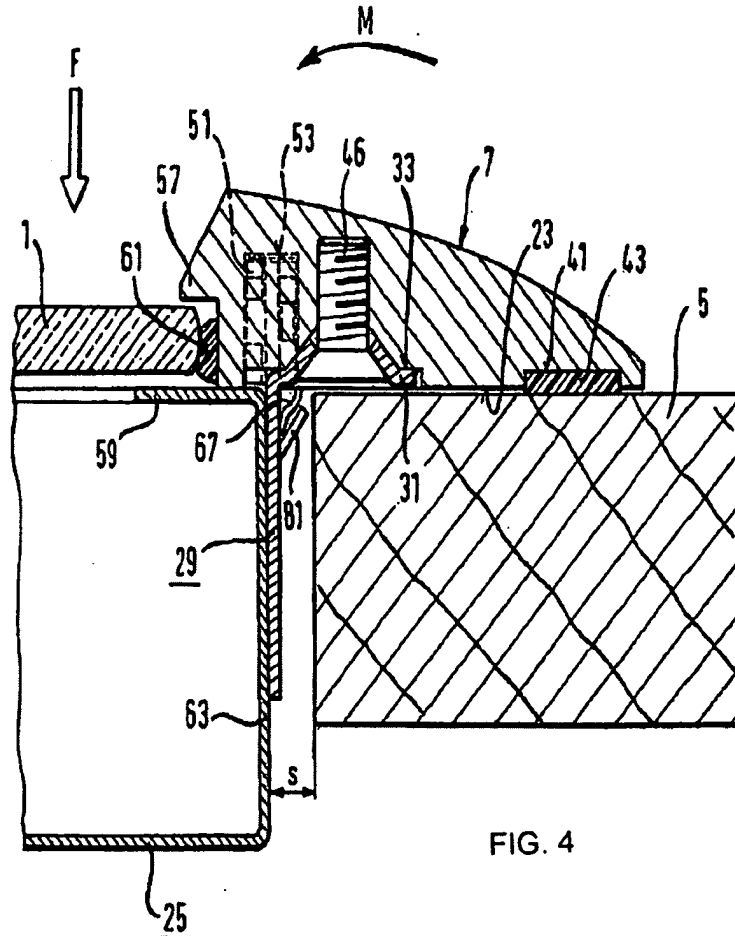
a formed or milled operating strip containing at least one operating element **and having a supporting surface on a lower side thereof in contact with the worktop** for supporting the household appliance on the worktop;

said operating strip including at least one recess in said supporting surface for an appliance component;
and

said at least one recess being substantially surrounded by said supporting surface of said operating strip. [emphasis added by Applicant]

As such, Applicant's amended claims 34 and 36 require, among other limitations, an operating strip having an operating element and **a supporting surface in contact with the worktop on the lower side of the operating strip, the supporting surface including at least one mounting recess** (claim 34) **or a recess for an appliance component** (claim 36). In other words, Applicant's claims 34 and 36 require, among other things, that the surface of the operating strip contacting the worktop has a mounting/appliance component recess in that surface. The amendments to claims 34 and 36 are supported by the specification of the instant application, for example, by Figs. 3 - 5 of the instant application. See also, for example, page 6 of the instant application, lines 30 - 33, page 7 of the instant application, lines 19 - 21 and page 8 of the instant application, lines 1 - 2 and 16 - 18. Fig. 4 of the instant application, graphically illustrating the relationship between the supporting surface (23 of Fig. 4),

the mounting recess (33 of Fig. 4) and the worktop (5 of Fig. 4), is being reproduced herebelow, for convenience.



Page 8 of Applicant's specification, lines 8 - 18, disclose certain advantages achieved by this configuration of Applicant's invention of claims 34 and 36, stating:

The fixing flange 31 is arranged so that it is recessed in the mounting recess 33 of the operating strip 7. **The overall height of the operating strip 7 supported on the worktop 5 is thereby reduced.** Inserting the fixing flange 31 into the mounting recesses 33 simply **ensures that the operating strip 7 is correctly positioned with respect to the housing**

25. For this purpose one edge of the mounting recess 33 substantially positively defines the housing-side fixing flange 31. According to FIG. 4, the fixing flange 31 is arranged between the operating strip 7 and the upper side of the work top. [emphasis added by Applicant]

However, none of the cited references teach or suggest, among other limitations, an operating strip having an operating element **and a supporting surface on the lower side of the operating strip in contact with the worktop**, the supporting surface including therein at least one mounting recess, as required by Applicant's claim 34, **or a recess for an appliance component**, as required by Applicant's claim 36.

For example, the **HUSSLEIN** reference discloses of a frame including operating elements (19 of Fig. 5 of **HUSSLEIN**), portions 7 and 17 of which contact a "cooker working plate" 21. However, as can be seen from Figs. 2 - 5, the fractional work surface contacting portions of the frame portions 7, 17 of **HUSSLEIN** do not include a recess through the contacting or "supporting" surface, as required by Applicant's claims 34 and 36.

The **STEINER** and **SCHEIDLER** references, cited in item 5 of the Office Action in combination with **HUSSLEIN** against Applicant's claims 34 and 36, do not cure the above-discussed deficiencies of the **HUSSLEIN** reference. Neither **STEINER**, nor **SCHEIDLER**, teach or suggest, among other limitations of Applicant's

claims, an operating strip, containing at least one operating element, which supports one side of the appliance on the worktop, as required by Applicants' claims. Rather, the frames of **STEINER** and **SCHEIDLER** do not include, among other limitations of Applicant's claims, an operating element.

Nor do the frame portions of, the **STEINER** and **SCHEIDLER** references have, among other limitations of Applicant's claims, a mounting recess/appliance component recess on an underside of a frame portion that contacts the worktop and supports the appliance on the worktop, as required by Applicant's claims 34 and 36. The failure of **STEINER** and **SCHEIDLER** to teach, suggest or motivate the use of an operating strip, much less an operating strip having the particular structure required by Applicant's claims 34 and 36, shows that the **STEINER** and **SCHEIDLER** references cannot teach or suggest the elements of Applicant's claims 34 and 36 that are missing from **HUSSLEIN**.

The **VILATO** reference, discussed in the Office Action in connection with Applicant's claims 17 - 21 and 24, does not cure the above discussed deficiencies of the **HUSSLEIN**, **STEINER** and **SCHEIDLER** references. For the foregoing reasons, among others, Applicants' claims 34 and 36 are additionally believed to be patentable over the **HUSSLEIN** reference, taken alone, or

in combination with the **VILATO, STEINER** and **SCHEIDLER**
references

It is accordingly believed that none of the references,
whether taken alone or in any combination, teach or suggest
the features of claims 17, 34 and 36. Claims 17, 34 and 36
are, therefore, believed to be patentable over the art. The
dependent claims are believed to be patentable as well because
they all are ultimately dependent on claims 17 or 34.

In view of the foregoing, reconsideration and allowance of
claims 17 - 36 are solicited.

In the event the Examiner should still find any of the claims
to be unpatentable, counsel would appreciate receiving a
telephone call so that, if possible, patentable language can
be worked out. In the alternative, the entry of the amendment
is requested, as it is believed to place the application in
better condition for appeal, without requiring extension of
the field of search.

The instant Amendment is being filed simultaneously with a
Request for Continuing Examination and its associated fee. If
an extension of time for this paper is required, petition for
extension is herewith made.

Applic. No. 10/577,825
Responsive to Office Action of January 5, 2009

Please charge any additional fees that might be due with
respect to Sections 1.16 and 1.17 to the Deposit Account of
Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

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